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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,629	01/27/2004	Glenn Joseph Leedy	ELM-1CONT.15	3771
1473	7590	03/30/2005	EXAMINER	
FISH & NEAVE IP GROUP			NGUYEN, THINH T	
ROPES & GRAY LLP				
1251 AVENUE OF THE AMERICAS FL C3			ART UNIT	
NEW YORK, NY 10020-1105			PAPER NUMBER	
			2818	

DATE MAILED: 03/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/766,629	<b>Applicant(s)</b> LEEDY, GLENN JOSEPH	
	<b>Examiner</b> Thinh T. Nguyen	<b>Art Unit</b> 2818	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 December 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 77-226 is/are pending in the application.
- 4a) Of the above claim(s) 77-85 and 148 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 86-147, 149-226 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### **Election/ Restriction**

1 Applicant's election **with traverse** of claims **86-147 and 149-226** for prosecution of the present Application in the communication with the Office on 12/2/2004 is acknowledged.

Because Applicant did not distinctly and specifically point out the supposed error in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Applicants have the right to file a divisional, continuation or continuation-in-part application covering the subject matter of the non-elected claims.

The traversal is on the ground(s) that see the election paper. This is not found persuasive because applicant did not give any reasons for the traversal. Also, because the fields of search for method and the Apparatus for its practice claims are NOT coextensive and the determinations of patentability of apparatus and process claims are different, that is process limitations and device limitations are given weight differently in determining the patentability of the claimed inventions. furthermore, the strategies for doing text searching of the apparatus claims and method claims are different. Thus, separate searches are required.

The requirement is still deemed proper and is therefore made **FINAL**. and claims 77-85 and 148 are not being considered in this Office Action.

**Election/ Restriction**

Claims 86-147 and 149-226 are pending in this application.

Claims 86-147 and 149-226 are directed to a lithography apparatus are restricted as follows:

2. The claims are directed to the following patently distinct species of the claimed invention:

**Species I.** as best as can be understood is described in claim 86 is directed to a lithography apparatus with an array of radiation source cells arranged in rows and columns, wherein each cell comprises: an exposure source; and an aperture through which the exposure source emissions pass onto a surface to be exposed.

**Species II.** as best as can be understood is described in claim 91 is directed to a lithography apparatus with an array of cells arranged in row and columns, the array being formed on a substrate, each cell being individually controlled to permit passage of charged particles from an external source;

**Species III.** as best as can be understood is described in claim 102 is directed to a lithography apparatus with a plurality of exposure elements; and means for selectively irradiating with at least one type of radiant energy portions of a surface of a layer by electronically controlling individually each of the exposure elements.

**Species IV.** as best as can be understood is described in claim 121 is directed to a lithography apparatus with stress-controlled dielectric layer formed on the substrate with

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exposure source and an aperture through which the exposure source emissions pass onto a surface to be exposed.

**Species V.** as best as can be understood is described in claim 129 is directed to a lithography apparatus with stress-controlled dielectric layer formed on the substrate with control logic integrated with the substrate for individually controlling each cell; wherein each cell comprises an aperture for passage of charged particles onto a surface to be exposed.

**Species VI.** as best as can be understood is described in claim 138 is directed to a lithography apparatus with means for selectively irradiating with at least one type of radiant energy portions of a surface of a layer by electronically controlling individually each of the exposure elements.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

3. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently filed petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(h).

#### **CONCLUSION**

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thinh T Nguyen whose telephone number is 571-272-1790. The examiner can normally be reached on 9.00 AM 6.00 PM Monday through Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DAVID NELMS can be reached on (571) 272-1787. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

Thinh T Nguyen



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David Nelms  
Supervisory Patent Examiner  
Technology Center 2800